

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 28, 2015

SENATE BILL

No. 212

Introduced by Senator Mendoza

February 11, 2015

An act to amend Section 11379.6 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 212, as amended, Mendoza. Controlled substances: factors in aggravation.

Existing law makes it a felony, punishable by imprisonment in a county jail for 3, 5, or 7 years, to manufacture, compound, convert, produce, derive, process, or prepare by chemical extraction, or by means of chemical synthesis, any controlled substance. Existing law requires the sentencing court to consider the fact that a person under 16 years of age resided in a structure in which a violation of these provisions occurred as a factor in aggravation.

This bill would ~~require~~ *specifically authorize* the sentencing court to consider the fact that a violation involving methamphetamine occurred within 200 feet of an occupied residence as a factor in aggravation. The bill would also ~~require~~ *specifically authorize* the sentencing court to consider the fact that a violation of this section involving the use of a volatile solvent to chemically extract concentrated cannabis occurred within 300 feet of an occupied residence as a factor in aggravation. ~~By increasing the punishment for an existing crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11379.6 of the Health and Safety Code
2 is amended to read:

3 11379.6. (a) Except as otherwise provided by law, every person
4 who manufactures, compounds, converts, produces, derives,
5 processes, or prepares, either directly or indirectly by chemical
6 extraction or independently by means of chemical synthesis, any
7 controlled substance specified in Section 11054, 11055, 11056,
8 11057, or 11058 shall be punished by imprisonment pursuant to
9 subdivision (h) of Section 1170 of the Penal Code for three, five,
10 or seven years and by a fine not exceeding fifty thousand dollars
11 (\$50,000).

12 (b) Except when an enhancement pursuant to Section 11379.7
13 is pled and proved, the fact that a person under 16 years of age
14 resided in a structure in which a violation of this section involving
15 methamphetamine occurred shall be considered a factor in
16 aggravation by the sentencing court.

17 (c) The fact that a violation of this section involving
18 methamphetamine occurred within 200 feet of an occupied
19 residence or any structure where another person was present at the
20 time the offense was committed ~~shall~~ may be considered a factor
21 in aggravation by the sentencing court.

22 (d) The fact that a violation of this section involving the use of
23 a volatile solvent to chemically extract concentrated cannabis
24 occurred within 300 feet of an occupied residence or any structure
25 where another person was present at the time the offense was
26 committed ~~shall~~ may be considered a factor in aggravation by the
27 sentencing court.

28 (e) Except as otherwise provided by law, every person who
29 offers to perform an act which is punishable under subdivision (a)

1 shall be punished by imprisonment pursuant to subdivision (h) of
2 Section 1170 of the Penal Code for three, four, or five years.

3 (f) All fines collected pursuant to subdivision (a) shall be
4 transferred to the State Treasury for deposit in the Clandestine
5 Drug Lab Clean-up Account, as established by Section 5 of Chapter
6 1295 of the Statutes of 1987. The transmission to the State Treasury
7 shall be carried out in the same manner as fines collected for the
8 state by the county.

9 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
10 ~~Section 6 of Article XIII B of the California Constitution because~~
11 ~~the only costs that may be incurred by a local agency or school~~
12 ~~district will be incurred because this act creates a new crime or~~
13 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
14 ~~for a crime or infraction, within the meaning of Section 17556 of~~
15 ~~the Government Code, or changes the definition of a crime within~~
16 ~~the meaning of Section 6 of Article XIII B of the California~~
17 ~~Constitution.~~